



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)

Andrew PERKINS *et al.*)

Serial No. 10/087,897)

Filed: March 1, 2002)

For: Machine And Method For Inflating))
And Sealing Air-Filled Packing)
Cushions)

Confirmation No.: 4526

Examiner: Huynh, Louis K.

Group Art Unit: 3721

Atty Dkt No.: 006759.00016

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully apply for reconsideration under 35 U.S.C. § 154(b) and 37 C.F.R. § 1.705(b) of the patent term adjustment indicated on the notice of Determination of Patent Term Adjustment mailed November 10, 2005 ("Notice") in the above-captioned application.

The Notice set the term adjustment at 229 days. However, Applicants respectfully submit that such a determination is not correct and that the proper term adjustment is 533 days.

The period of Board review was correctly calculated as 533 days (the number of days from the filing of a Notice of Appeal until the mail date of the Board decision reversing the Examiner).

02/07/2006 HBEYENE2 00000003 190733 10087897
01 FC:1455 200.00 DA

However, there was a penalty of 301 days for filing an Information Disclosure Statement on July 19, 2005. This submission included a statement, pursuant to 37 C.F.R. § 1.704(d), that each item was cited in a foreign search report which was not received more than 30 days prior to the submission of the IDS. Therefore, there should not have been a reduction in term adjustment based on the filing of this Information Disclosure Statement. 37 C.F.R. § 1.704(d).

Applicants did not engage in any actions that would require a reduction in the patent term adjustment under 37 C.F.R. §1.704. Accordingly, under 37 C.F.R. §§1.702(a)(1) and 1.703(a)(1) the period of adjustment should be the number of days from the filing of a Notice of Appeal until the mail date of the Board decision reversing the Examiner, which totals 533 days.

A statement of the facts is as follows:

The application was filed on March 1, 2002.

Fourteen months from the filing date of the application was May 1, 2003.

The first Office Action was mailed on March 26, 2003.

An Amendment and Extension of Time for one month was filed May 27, 2003.

All other Amendments/Responses by the applicants were filed within the three month time period set forth in 37 C.F.R. §1.704(b).

The above-captioned application is not subject to a terminal disclaimer.

The above set forth facts clearly support Applicants' position that the proper term adjustment should be 533 days because (1) the number of days from February 3, 2004 to July 21, 2005 is 533 and (2) the Applicants did not engage in any conduct that could be

considered a failure to engage in reasonable efforts to conclude examination as defined in 37 C.F.R. §1.704.

Applicants also submit herewith a Fee Transmittal authorizing the requisite fee under 37 C.F.R. § 1.18(e) (\$200) to be charged to our Deposit Account No. 19-0733. If any additional fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733 as appropriate.

Applicants respectfully submit that the correct Patent Term Adjustment should be 533 days. A Notice to this effect and a correction of the patent term adjustment are requested.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: February 3, 2006

By: /Paul M. Rivard/
Paul M. Rivard
Registration No. 43,446

1001 G Street, N.W.
Washington, DC 20001-4597
(202) 824-3000 (main)
(202) 824-3001 (facsimile)

Customer No. 22907